

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew St. Clair on 12/18/2009.

The application has been amended as follows: In claims 7, 8, 9, and 10, the "5" was changed to --1--.

Claim 40 (currently amended) A probe for measuring an electric potential of a cell, said probe being configured for use with a sucking device, said probe comprising:

a plate having an upper surface;

a first cavity provided in the upper surface of the plate, the first cavity having a bottom surface;

a second cavity provided in the bottom surface of the first cavity;

a first flow passage provided in the plate, the first flow passage having a first opening and a second opening, the first opening of the first flow passage opening to the second cavity, the second opening of the first flow passage opening outside the plate;

a sensor element provided in the first cavity, the sensor element having a thickness substantially equal to a depth of the first cavity such that an upper surface of the sensor element

is substantially flush with the upper surface of the plate and a lower surface of the sensor element contacts the bottom surface of the first cavity; and

a through-hole provided in the sensor element such that the second cavity is in fluid communication with an external environment at the upper surface of the plate,

wherein the first flow passage is configured to allow fluid to flow in the plate such that the sucking device is operable to suck the fluid flowing in the first flow passage, and

wherein the first flow passage has a curved path including at least three switchbacks, and

a third cavity provided in the upper surface of the sensor element such that a thin plate is formed at the bottom surface of the sensor element, the through-hole being provided in the thin plate of the sensor element.

Claim 43 was cancelled.

2. The following is an examiner's statement of reasons for allowance: This examiner is withdrawing the previous rejection of claim 1 in view of the fact that the previous claim 5 was incorporated into claim 1. In particular, the previous examiner relied on the embodiment of fig. 7A of Bech for the teaching of first and second cavities and relied on the embodiment of fig. 8 of Bech for the teaching of a second flow passage. However, the embodiment of fig. 8 would appear to lack any structure that would read on the defined second cavity required for claim 1. In other words, when Bech incorporated a second flow passage into its device (as in fig. 8), its device no longer read on one of the requirements of claim 1, and claim 1 is not disclosed nor

rendered obvious over the teaching of Bech. With respect to amended claim 40, this examiner was not persuaded by the previous examiner's argument that it would have been obvious to flip over the sensor element of Bech to read on the claim requirements of the previous claim 43.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAJ K. OLSEN whose telephone number is (571)272-1344. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam X. Nguyen can be reached on 571-272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Kaj K Olsen/

Primary Examiner, Art Unit 1795

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